

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

EOS AIRLINES, INC.,

Debtor.

Chapter 11

Case No. 08-22581 (ASH)

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PETER MOCHNAL,

Plaintiff,

v.

ADV. PRO. 08-08279 (ASH)

EOS AIRLINES, INC.,

Defendant.

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**ORDER APPROVING SETTLEMENT AND CLASS
COUNSEL'S REQUEST FOR FEES AND COSTS**

Upon the *Joint Motion for (A) an Order (I) Certifying WARN Act Class; (II) Appointing Class Representative and Class Counsel; (III) Preliminarily Approving Settlement Agreement Resolving WARN Act Claims; (IV) Approving the Form and Manner of Notice to Class Members of Proposed Settlement; and (V) Scheduling a Final Fairness Hearing for Approval of the Settlement; and (B) An Order Finally Approving the Settlement Including Class Counsel's Request for Fees and Costs Following the Fairness Hearing* (the "Motion") submitted by the Plaintiff,¹ the Debtor and the Committee; and the Court having considered the Motion, the arguments of counsel and any opposition thereto; and the Court having found that proper notice of the Motion has been given and that no other future notice is required, except as set forth herein; and that the relief requested in the Motion is appropriate to resolve the significant and

¹ Capitalized terms used herein but not otherwise defined shall have the meaning ascribed to such terms in the Motion.

complex issues raised by this litigation and to avoid the burden, uncertainty, delay, expense and distraction of litigation;

IT IS HEREBY ORDERED THAT:

1. The Settlement, as memorialized in the Agreement, is approved in all respects. Any conflict between the Agreement, the Motion and this Order shall be resolved in favor of the Agreement.
2. The Settlement shall become binding upon the Parties, the Class and all Class Members on the Effective Date, as set forth in the Agreement.
3. Class Counsel is awarded expenses of \$13,355.24 and shall be entitled to fees totaling one-third (33 1/3%) of all Settlement Proceeds (the “Class Counsel Fees”) to be payable from the Settlement Proceeds. The Class Counsel Fees shall not constitute a separate claim against the Debtor’s estate and Class Counsel shall look exclusively to the Settlement Proceeds for the payment of all Class Counsel Fees.
4. Entry of this Order is without prejudice to the relief granted in this Court’s *Order Granting Joint Motion for an Order (I) Certifying WARN Act Class; (II) Appointing Class Representative and Class Counsel; (III) Preliminarily Approving Settlement Agreement Resolving WARN Act Claims; (IV) Approving the Form and Manner of Notice to Class Members of the Proposed Settlement; and (V) Scheduling a Final Fairness Hearing for Approval of the Settlement* (the “First Order”), entered on September 4, 2008 [Doc. 14] and entry of this Order shall not serve to extend or stay any time for filing an appeal regarding any of the relief granted in the First Order.
5. Counsel for the Debtor shall file notice of this Order in the above-captioned Chapter 11 proceeding (the “Chapter 11 Case”) and serve notice of the same on all parties

requesting notice in the Chapter 11 Case pursuant to Bankruptcy Rule 2002.

6. The requirement pursuant to Local Bankruptcy Rule 9013-1(b) for the filing of a memorandum of law in support of the Motion is hereby deemed satisfied or waived.

7. This Court shall retain jurisdiction over all matters arising pursuant to or related to the relief granted by this Order.

Dated: White Plains, New York
September 25, 2008

/s/ Adlai S. Hardin, Jr.
United States Bankruptcy Judge